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| APPLICATION NO.                             | FILING DATE     | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-----------------|----------------------|-------------------------|------------------|
| 09/816,291                                  | 03/22/2001      | Daniel Leibholz      | SUN P4805               | 6100             |
| 22835 75                                    | 90 06/15/2004   |                      | . EXAMINER              |                  |
|   | HAN & FLEMING I | LLP                  | TREAT, WILLIAM M        |                  |
| 508 SECOND STREET SUITE 201 DAVIS, CA 95616 |                 |                      | ART UNIT                | PAPER NUMBER     |
|   |                 |                      | 2183                    | h                |
| •   |                 |                      | DATE MAILED: 06/15/2004 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|   |  | <b>S1</b> /  |  |  |  |
|---|--|--|--|--|--|
|   | Application No.  | Applicant(s)   |  |  |  |
| Office Action Summers   | 09/816,291   | LEIBHOLZ ET AL.  |  |  |  |
| Office Action Summary   | Examiner   | Art Unit   |  |  |  |
| The MAN INC DATE of this communication and  | William M. Treat   | 2183   |  |  |  |
| The MAILING DATE of this communication app<br>Period for Reply  | lears on the cover sheet with the d  | orrespondence address  |  |  |  |
| A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period v - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | 36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE | nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133). |  |  |  |
| Status  |  |  |  |  |  |
| 1)⊠ Responsive to communication(s) filed on <u>22 M</u> 2a)□ This action is <b>FINAL</b> . 2b)⊠ This     3)□ Since this application is in condition for allowar closed in accordance with the practice under E  | action is non-final.<br>nce except for formal matters, pro   |  |  |  |  |
| Disposition of Claims   |  |  |  |  |  |
| 4) Claim(s) 1-37 is/are pending in the application. 4a) Of the above claim(s) is/are withdrav 5) Claim(s) is/are allowed. 6) Claim(s) 1-37 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or   | vn from consideration.   |  |  |  |  |
| Application Papers  |  |  |  |  |  |
| 9) The specification is objected to by the Examine  |  |  |  |  |  |
| 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  |  |  |  |  |  |
| Applicant may not request that any objection to the correction Replacement drawing sheet(s) including the correction 11) The oath or declaration is objected to by the Ex   | on is required if the drawing(s) is obj  | ected to. See 37 CFR 1.121(d).   |  |  |  |
| Priority under 35 U.S.C. § 119  |  |  |  |  |  |
| 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list of  | s have been received. s have been received in Application ity documents have been received (PCT Rule 17.2(a)).   | on No ed in this National Stage  |  |  |  |
| Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 4) Interview Summary Paper No(s)/Mail Da   | ite  |  |  |  |
| 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2 and 5</u> .   | 5)  Notice of Informal P 6)  Other:  | atent Application (PTO-152)  |  |  |  |
| U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04) Office Ac   | tion Summary   | Part of Paper No./Mail Date 7  |  |  |  |

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- 1. Claims 1-37 are presented for examination.
- 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1-37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zaida et al. (Patent No. 6,016,540).
- 4. Applicants' claims so mirror the actions and design of Zaida that applicants seem to have been unaware of the earlier patent. When the examiner reviews applicants' specification there do seem to be potential differences between the two inventions, but applicants' broad claim language does not make such differences clear. For example, circuitry, which performs the claimed functions of the checker, dependency unit, and granting unit of claim 30, is an inherent part of virtually any superscalar processor that has come across this examiner's desk in recent years. Applicants should clearly consider sharpening the focus of their claim language.
- 5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 6. Claims 21 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 7. In claim 21 applicants seem to have omitted one or more words rendering their language unclear. In claim 28, line 2, the word, "instructions," should probably be in the singular form.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- 9. Scheaffer et al. (Patent No. 5,710,902).
- 10. Any inquiry concerning this communication should be directed to William M. Treat at telephone number 703 305 9699. The examiner works at home on Wednesdays but may normally be reached on Wednesdays by leaving a voice message using his office phone number. The examiner also works a flexible schedule but may normally be reached in the afternoon and evening on three of the four remaining weekdays.
- 11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WILLIAM M. TREAT PRIMARY EXAMINER